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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,114

02/21/2006

Georg Bruendermann

DAL0162PUSA

2854

22045 7590 04/20/2009

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EXAMINER

HECKERT, JASON MARK

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

04/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,114	Applicant(s) BRUENDERMANN, GEORG	
	Examiner JASON HECKERT	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/24/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1291598 ('598) in view of Schellekens. '598 shows a device for cleaning flues of combustion systems comprising a nozzle head 1 that directs fluid in the flue, a hose 7 that is connected to the nozzle head for delivering fluid, a hose reel 6 for unwinding and winding the hose so that vertical position can be adjusted, wherein the hose reel has a single axis about which it is rotated. A drive unit 8 powers the reel via a motor 9. The nozzle head has multiple nozzles 5 that are spaced apart in a circumferential direction (figure 2). '598 does disclose a hose reel with a horizontal axis of rotation for winding, but does not disclose that the drum reel also has a vertical axis of rotation for rotating the nozzle. However, '598 does teach that a vertical axis of rotation is advantageous for the apparatus, so that the nozzle may rotate and spray water in a multitude of directions. '598 includes a device comprising a turbine 2 and gear train 3 so that the nozzle may rotate about a vertical axis. Thus, it is well known to provide nozzle rotation about a vertical axis. Furthermore, drum reels with multiple axes of rotation are well known in the art of delivering high pressure cleaning fluid to pipes. It would be obvious to substitute another known drum reel design with the hose reel of '598 as it would

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provide expected results to one of ordinary skill. Schellekens shows a drum reel with rotation about a carrier with a vertical axis as well as a horizontal axis for winding (see figures 1-4). It would have been obvious at the time of invention to modify '598 and include the hose reel of Schellekens in order to provide multiple axes of rotation.

3. In regards to claim 5, the combination of '598 in view of Schellekens is capable of being aligned in such a manner. In regards to claim 6, the rotation in both prior art disclosures is controllable. In regards to claim 7, '598 obviates controlling pressure with a pump 11. Claims 8-9, 12 are regarded as intended use as they do not positively recite structural limitations. The manner in which an apparatus operates is not germane to the issue of patentability of the apparatus itself. *Ex parte Wikdahl* 10 USPQ 2d 1546, 1548 (BPAI 1989); *Ex parte McCullough* 7 USPQ 2d 1889, 1891 (BPAI 1988); *In re Finsterwalder* 168 USPQ 530 (CCPA 1971); *In re Casey* 152 USPQ 235, 238 (CCPA 1967). Furthermore, apparatus claims cover what a device is, not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.* 15 USPQ 2d 1525 (Fed. Cir. 1990); *Demaco Corp. v. F. Von Langsdorf Licensing Ltd.* 7 USPQ 2d 1222, 1224-1225 (Fed. Cir. 1988). Additionally, claims 5, 7, 9, 12 discuss what the device “can” do, not what the device “is”. The combination of '598 and Schellekens is believed to be capable of operating in the same manner.

4. In regards to claim 10, '598 discloses that a motor can control the rotation about the horizontal axis. One of ordinary skill knows that a motor can be used to control rotation about a vertical axis as well. Schellekens already discloses free movement about a vertical axis, and including a conventional motor to automate that movement is

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not considered to be patentably distinct. It has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

5. Claims 13-14 rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1291598 in view of Schellekens and further in view of DE 2216086 ('086). '598 does not teach an eye for fastening a tension rope. '086 clearly shows an eye for fastening a rope (figure 2) to a nozzle head. It would have been obvious at the time of invention to modify '598 in view of Schellekens, as stated above, and further include an eye, as taught by '086, for fastening a tension rope.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art
Unit 1792

JMH